



Entered on Docket
September 02, 2010


Hon. Gregg W. Zive
United States Bankruptcy Judge

STEPHEN R. HARRIS, ESQ.
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Debtor-in-Possession

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

* * * * *

IN RE:

Case No. BK 09-54485 gwz
(Chapter 11)

SKYE INTERNATIONAL, INC.
a Nevada corporation,

**ORDER APPROVING
AND CONFIRMING DEBTOR'S
FIRST AMENDED PLAN OF
REORGANIZATION, AS
SUPPLEMENTED**

Debtor.

Hrg. DATE: August 24, 2010
Hrg. TIME: 2:00 p.m.

SKYE INTERNATIONAL, INC., a Nevada corporation, ("Debtor") the Debtor and

Debtor-in-Possession in this Chapter 11 bankruptcy reorganization proceeding, by and through its
attorneys, STEPHEN R. HARRIS, ESQ., and CHRIS D NICHOLS, ESQ., of BELDING,
HARRIS & PETRONI, LTD., having submitted its DEBTOR'S FIRST AMENDED JOINT

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2 DISCLOSURE STATEMENT AND PLAN OF REORGANIZATION (dated May 20, 2010),
3 filed on May 20, 2010, as supplemented by the SUPPLEMENT TO DEBTOR'S FIRST
4 AMENDED JOINT DISCLOSURE STATEMENT AND PLAN OF REORGANIZATION, filed
5 on August 11, 2010 (collectively "PLAN"); and the PLAN having been duly served and noticed
6 for an 11 U.S.C. §1129 Confirmation Hearing, to all creditors and parties requesting notice
7 thereof, with the duly noticed hearing to consider confirmation of the Debtor's PLAN, as
8 amended and supplemented, conducted on August 24, 2010, at 2:00 p.m.; with CHRIS D
9 NICHOLS, ESQ. of BELDING, HARRIS & PETRONI, LTD., appearing on behalf of the Debtor,
10 SKYE INTERNATIONAL, INC., and Tom Kauffman, representative of the Debtor also present;
11 with WILLIAM B. COSSITT, ESQ., appearing on behalf of the Office of the United States
12 Trustee; and the Court having considered all pleadings on file and the oral argument of counsel
13 for the relief requested; including the Limited Objection of Summit Growth Management, LLC to
14 Confirmation of Debtor's First Amended Joint Disclosure Statement and Plan of Reorganization
15 filed August 6, 2010, the Reply to Limited Objection of Summit Growth Management, LLC., to
16 Confirmation of Debtor's First Amended Joint Disclosure Statement and Plan of Reorganization
17 filed August 22, 2010; and good cause appearing;

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20 IT IS HEREBY DETERMINED after hearing on notice that:

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22 1. The PLAN has been accepted in writing by the creditors and interest holders whose
23 acceptances are required by law; and
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25 2. The provisions of Chapter 11 of the Code have been complied with; that the PLAN
26 has been proposed in good faith and not by any means forbidden by law; and that the proponent of
27 the PLAN complies with the applicable provisions of the Bankruptcy Code; and
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29 3. Each holder of a claim and interest has accepted the PLAN or will receive or retain

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2 under the PLAN property of a value, on account of such claim, as of the Effective Date of the
3 PLAN, that is not less than the amount that such holder would receive or retain if the Debtor
4 SKYE INTERNATIONAL, INC., a Nevada corporation, were liquidated under Chapter 7 of the
5 Code on such date. Further, the PLAN does not discriminate unfairly, and is fair and equitable,
6 with respect to each class of claims and/or interests that is impaired under, and had not accepted
7 the PLAN; and
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9 4. All payments made or promised by the Debtor SKYE INTERNATIONAL, INC.,
10 or by a person or entity issuing securities or acquiring property under the PLAN or by any other
11 person or entity for services or for costs and expenses in, or in connection with, the PLAN and
12 incident to this case, have been fully disclosed to the Court and are reasonable or, if to be fixed
13 after confirmation of the PLAN, will be subject to the approval of the Court; and
14

15 5. The identity, qualifications, and affiliations of the persons who are to be directors
16 or officers of the successor to the Debtor SKYE INTERNATIONAL, INC., a Nevada corporation,
17 under the PLAN, have been disclosed, if any; and

18 6. The identity of any insider that will be employed or retained by the Debtor and
19 their compensation has been fully disclosed, if any; and

20 7. Confirmation of the PLAN is not likely to be followed by the need for further
21 financial reorganization of the Debtor SKYE INTERNATIONAL, INC., or any successor to it
22 under the PLAN, and the PLAN is feasible; and
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24 8. At least one impaired class of claims has accepted the PLAN, determined without
25 including any acceptances of the PLAN by an insider holder of a claim of such class; and

26 9. That certain impaired creditors and interest holders have accepted the PLAN by
27 virtue of acceptance of the PLAN by the requisite number and amount of members in each class,
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2 those accepting classes being Class 2 – Thaddeus Marek, Class 3 – Perry and Rosario Logan,
3 Class 5 - General Unsecured Creditors, Class 6 – Equity Claims and Class 7 – Stock Option
4 Claims providing no votes; and

5 10. The LIMITED OBJECTION OF SUMMIT GROWTH MANAGEMENT, LLC,
6 TO CONFIRMATION OF DEBTOR’S FIRST AMENDED JOINT DISCLOSURE
7 STATEMENT AND PLAN OF REORGANIZATION has been addressed by Debtor filing its
8 SUPPLEMENT TO DEBTOR’S FIRST AMENDED JOINT DISCLOSURE STATEMENT AND
9 PLAN OF REORGANIZATION, whereby it was stated and agreed that SUMMIT GROWTH
10 MANAGEMENT, LLC, would retain as a post-confirmation lien on all of Debtor’s pre- and post-
11 petition property serving as collateral for the loan of SUMMIT GROWTH MANAGEMENT,
12 LLC, with Debtor, pursuant to the FINAL ORDER AUTHORIZING DEBTOR TO OBTAIN
13 DEBTOR-IN-POSSESSION FINANCING UNDER 11 U.S.C. §§105 AND 364(c), AND FRBP
14 4001(c) entered February 19, 2010; and

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17 **IT IS HEREBY ORDERED** that the DEBTOR’S FIRST AMENDED JOINT
18 DISCLOSURE STATEMENT AND PLAN OF REORGANIZATION (dated May 20, 2010),
19 filed with the Court on May 20, 2010, as supplemented by the SUPPLEMENT TO DEBTOR’S
20 FIRST AMENDED JOINT DISCLOSURE STATEMENT AND PLAN OF
21 REORGANIZATION, filed on August 11, 2010, collectively referred to as the PLAN, be and the
22 same hereby is approved and confirmed and is binding on all creditors, interest holders and
23 parties-in-interest in the above-captioned bankruptcy case; and

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25 **IT IS FURTHER ORDERED** that the Effective Date of the PLAN shall be the first
26 business day occurring thirty (30) calendar days after the date on which the ORDER
27 APPROVING AND CONFIRMING DEBTOR’S FIRST AMENDED PLAN OF
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2 REORGANIZATION, AS AMENDED AND SUPPLEMENTED, is entered by the Clerk's
3 Office; and

4 **IT IS FURTHER ORDERED** that Debtor SKYE INTERNATIONAL, INC., shall treat
5 and pay allowed creditors claims as stated in the PLAN; and

6 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction to adjudicate all
7 matters (except to the extent contrary to the terms of the PLAN) pertinent to the administration of
8 the Debtor's bankruptcy estate and to the extent provided by law and under the terms of the
9 PLAN; and

10 **IT IS FURTHER ORDERED** that the Debtor is authorized to take all actions necessary
11 to effectuate the PLAN; and

12 **IT IS FURTHER ORDERED** that the assets of the bankrupt estate shall revest in the
13 Reorganized Debtor; and

14 **IT IS FURTHER ORDERED** that the confirmation of this PLAN constitutes a discharge
15 as set forth in 11 U.S.C. § 1141(d) of the Bankruptcy Code, except as noted herein; and

16 **IT IS FURTHER ORDERED** that pursuant to 11 U.S.C. § 1106(a)(7), the Debtor shall
17 file with the Clerk, not later than 180 days after the entry of this order, a report of the action
18 taken by the Debtor and the progress made toward consummation of its confirmed Plan, as
19 amended and supplemented herein, and further, said report shall include, at a minimum, the
20 following information:

21 (1) A schedule of any real property, and its cost, acquired since
22 confirmation of the Plan, and a schedule of each item of personal property acquired
23 at a cost of more than \$20,000.00 since confirmation of the Plan;

24 (2) A schedule of each debt and each class of creditors listing the total
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2 amount of the amount required to be paid, the amount required to be paid to date,
3 the amount actually paid to date, and the amount unpaid;

4 (3) A schedule of executory contracts entered into or assumed after Plan
5 confirmation;
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7 (4) A statement indicating that post-petition taxes of every kind have been
8 paid current, identifying each type of tax which has been paid and is current (*i.e.*,
9 income, payroll, property, sales, etc.), or a detailed explanation of any and all
10 delinquencies, by type of tax, and dollar amount;

11 (5) An estimate of the time for Plan consummation and application for final
12 decree; and
13

14 (6) Any other pertinent information needed to explain the progress toward
15 completion of the confirmed Plan; and

16 **IT IS FURTHER ORDERED** that Debtor's duly appointed professionals who render
17 professional services after the Confirmation Date, do not need to seek Court approval for payment
18 of professional fees and costs, and that the Debtor may pay said professionals for the time spent
19 and costs incurred in the ordinary or non-ordinary course of its business and liquidation without
20 Court approval of same; and
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22 **IT IS FURTHER ORDERED** that the Debtor has sixty (60) days after the Confirmation
23 Date within which to file objection(s) to any disputed Proof(s) of Claim and;

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2 IT IS FURTHER ORDERED that the Debtor shall act as the Disbursing Agent for the
3 Debtor's bankruptcy estate, who shall make PLAN payments from monies collected through
4 operations or liquidation of the Reorganized Debtor's assets pursuant to the PLAN.

5 Prepared and Submitted by:

6 CHRIS D NICHOLS, ESQ.
7 BELDING, HARRIS & PETRONI, LTD.
8 417 W. Plumb Lane
9 Reno, NV 89509

10 ATTORNEYS FOR DEBTOR

11 Approved/Disapproved as to form
12 this 1st day of September, 2010.

Approved/Disapproved as to form
this ____ day of _____, 2010.

13 MAUPIN, COX & LEGOY
14 4785 Caughlin Parkway
15 Reno, Nevada 89520

OFFICE OF U.S. TRUSTEE
300 Booth Street, Suite 3009
Reno, Nevada 89509

16 CHRISTOPHER D. JAIME, ESQ.
17 Attorney for Lender, SUMMIT
18 GROWTH MANAGEMENT, LLC

WILLIAM B. COSSITT, ESQ.

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23 ###

1
2 **IT IS FURTHER ORDERED** that the Debtor shall act as the Disbursing Agent for the
3 Debtor's bankruptcy estate, who shall make PLAN payments from monies collected through
4 operations or liquidation of the Reorganized Debtor's assets pursuant to the PLAN.

5 *Prepared and Submitted by:*

6 CHRIS D NICHOLS, ESQ.
7 BELDING, HARRIS & PETRONI, LTD.
8 417 W. Plumb Lane
9 Reno, NV 89509

10 _____
11 ATTORNEYS FOR DEBTOR

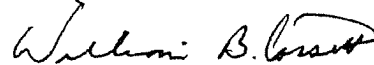
12 Approved/Disapproved as to form
13 this ____ day of _____, 2010.

14 MAUPIN, COX & LEGOY
15 4785 Caughlin Parkway
16 Reno, Nevada 89520

17 _____
18 CHRISTOPHER D. JAIME, ESQ.
19 Attorney for Lender, SUMMIT
20 GROWTH MANAGEMENT, LLC

Approved/~~Disapproved~~ as to form
this ____ day of _____, 2010.

OFFICE OF U.S. TRUSTEE
300 Booth Street, Suite 3009
Reno, Nevada 89509



Attorney for Acting United States Trustee
August B. Landis

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22
23 ###